IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

OP.No. 16992 of 2002(W)

PETITIONERS:
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1. **PAUL M.CHERIAN, S/O.M.G.CHERIAN, MATTAMANA, IRINGOLE P.O., PERUMBAVOOR, WORKING AS DAIRY FARM INSTRUCTOR, DAIRY EXTENSION SERVICE UNIT, ALUVA.**

2. **K.RADHAKRISHNAN, S/O.LATE K.G.KUMARAN, VALUPARAMPIL, PEROOR P.O., KOTTAYAM DIST.,WORKING AS DAIRY FARM INSTRUCTOR, VYTTILA BLOCK.**

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

2. **SECRETARY TO GOVERNMENT, DEPARTMENT OF AGRICULTURE (DAIRY),GOVT. OF KERALA, THIRUVANANTHAPURAM.**

3. **THE DIRECTOR OF DAIRY DEVELOPMENT, DIRECTORATE OF DAIRY DEVELOPMENT DEPT., THIRUVANANTHAPURAM.**

4. **SRI.M.L.GEORGE, DAIRY FARM INSTRUCTOR, DAIRY EXTENSION SERVICE UNIT, NEDUMKANDAM, IDUKKI DIST.**

5. **SRI.G.CHACKO, DAIRY FARM INSTRUCTOR, DAIRY EXTENSION SERVICE UNIT, VELLANADU, THIRUVANANTHAPURAM.**

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**6. SRI.SANJAYAN S., DAIRY FARM INSTRUCTOR,
DAIRY EXTENSION SERVICE UNIT, CHERUMODU,
KOLLAM DIST.**

**7. SRI.V.P.HEMA KUMAR,
DAIRY FARM INSTRUCTOR, DAIRY EXTENSION SERVICE
UNIT, PERUMKADAVIL, THIRUVANANTHAPURAM.**

**BY ADV. SRI.P.C.SASIDHARAN
SRI.P.RAJKUMAR
GOVERNMENT PLEADER SMT.SMITHA SUKUMARAN**

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 27/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.16992/2002

ORDER ON CMP. NO. 28992/2002 IN OP. NO.16992/2002

DISMISSED

27.07.2007 SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- SELECT LIST WHICH IS DULY APPROVED AND PUBLISHED IN THE GAZETTE EXTRA ORDINARY DT. 10.6.02.

EXT.P2:- COPY OF THE GOVT. ORDER G.O.(RT) NO.622/02/AD DT. 19.6.02 ISSUED BY GOVT.OF KERALA.

EXT.P3:- COPY OF THE SPECIAL RULES AS AM,ENDED AND PUBLISHED IN THE KERALA GAZETTE EXTRA ORDINARY DT. 16.10.97.

EXT.P4:- COPY OF THE LETTER DT. 11.2.93 ISSUED BY NATIONAL DAIRY RESEARCH INSTITUTE.

EXT.P5:- COPY OF THE ORDER NO.ES-17/6973/02 DT. 27.6.02 ISSUED BY R3.

EXT.P6:- COPY OF THE JUDGMENT IN OP. NO.7466/04 DT. 5.9.96.

EXT.P7:- COPY OF THE COUNTER AFFIDAVIT IN OP. NO.7466/94 DT. 25.10.95 BY THE GOVERNMENT OF KERALA.

EXT.P8:- COPY OF THE NOTIFICATION NO.F.9-26/94 U3 DT. 15.3.2000 BY THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT , NEW DELHI.

RESPONDENTS EXHIBITS

EXT.R5(a):- COPY OF THE LETTER NO.E3/27044/03 DT. 31.1.94 OF THE 3RD RESPONDENT.

EXT.R5(b):- COPY OF THE ORDER G.O.(RT) NO.341/95/AD DT. 28.2.1995.

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EXT.R5(c):- COPY OF THE RECOMMENDATION OF THE DIRECTOR OFR GRANTING STUDY LEAVE TO THE 4TH RESPONDENT DT. 3.11.92.

EXT.R5(d):- COPY OF THE ORDER ISSUED BY THE GOVERNMENT DT. 19.8.1998.

E.XT.R5)e):- COPY OF THE AMENDED SPECIAL RULES PUBLISHED IN THE KERALA GAZETTE DT. 18.10.97.

EXT.R5(f):- COPY OF THE JUDGMENT IN OP. NO.3227/01 DT. 9.1.02.

EXT.R5(g):- COPY OF THE EXTRACT OF THE CALENDAR OF ALLAHABAD UNIVERSITY.

EXT.R5(h):- COPY OF THE LETTER SENT BY THE ALLAHABAD AGRL.UNIVERSITY TO THE SECRETARY TO GOVT.

/TRUE COPY/

P.A. TO JUDGE

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THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.16992 OF 2002

Dated this the 27th day of July, 2007

JUDGMENT

The short issue that arises for decision in this writ petition is as to whether the private respondents, in-service candidates who possess diploma awarded by the Allahabad Agricultural Institute, are entitled to be considered for appointment by transfer as Dairy Extension Officers. They are Dairy Farm Inspectors in the Dairy Development Department. While in service, they underwent a course in the Allahabad Agricultural Institute and were awarded the diploma. The Government, however, took the view that such qualification possessed by them is not one recognised. They, therefore, moved this Court and Ext.R5(f) judgment was issued by this Court in O.P.No.3227/01. As rightly noticed by the learned Justice, the qualification prescribed for appointment by transfer and the qualification prescribed for direct recruitment in terms of Ext.P3 Special Rules are different. While possession of a degree in Dairy Science of a recognised University or of National Dairy

Research Institute under the Indian Council of Agricultural Research is required for considering an applicant for direct recruitment, a degree or diploma in Dairying from a recognised University or Institute is sufficient for consideration for appointment by transfer from among in-service candidates. The question, therefore, as to whether the diploma granted by the Allahabad Agricultural Institute is one to be recognised or not is squarely within the decision making authority of the Government.

2. Following the aforesaid judgment, the Government, having regard to the contents of the letter dated 19.3.2002 addressed by the Director of Dairy Development, considered the said issue and made Ext.P2 Government Order issuing its decision that the diploma possessed by the private respondents herein from the Allahabad Agricultural Institute is considered as the qualification for appointment by transfer to the post of Dairy Extension Officer. This means that the Government have decided that the diploma from the Allahabad Agricultural Institute is a

qualification recognised by the Government for appointment by transfer in terms of Ext.P3 Special Rules. May be that Ext.P2 order could have been expressed in better terms rather than state as if it applies only to the private respondents.

For the aforesaid reasons, the challenge against the impugned order fails. The writ petition is accordingly dismissed. No costs.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.16992 OF 2002

JUDGMENT

27TH JULY, 2007.

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